



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 28, 1994

Mr. Charles E. Griffith, III
Deputy City Attorney
City of Austin
Department of Law
Norwood Tower
P.O. Box 1088
Austin, Texas 78767-8828

OR94-090

Dear Mr. Griffith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.).¹ Your request was assigned ID# 23354.

The City of Austin (the "city") received a request for Emergency Medical Service "run sheets," which are patient records completed by emergency medical personnel. The requestor has asked for the following information about patients from those records: age; date of birth; sex; weight; insurance and employer information; and medical information including the patient's medical history, diagnosis, and treatment. You contend that this information is confidential under section 552.101, which provides that information is excepted if it is "confidential by law, either constitutional, statutory, or by judicial decision." You rely upon section 773.091 of the Health and Safety Code (the Emergency Medical Services Act), which provides in part:

(b) Records of the identity, evaluation or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

....

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services. . . .

Section 773.091(b) thus protects from disclosure the emergency medical service "run sheets" to the extent that they supply information as to the identity, evaluation, or treatment of patients, except for the information specifically listed as not confidential in section 773.091(g). *See* Open Records Decision No. 598 (1991).² As section 773.091(g) provides that a patient's age and sex is not confidential, you must disclose information giving the patient's age, date of birth, and sex. You also must release information about weight, as this is not information about the patient's identity, evaluation, or treatment and is not otherwise protected under the Open Records Act. You must release the medical information that concerns the presence or nature of injury or illness for which the patient was treated.³ You may not release treatment information. You may not release any of

²Open Records Decision No. 598 (1991) addresses a release of records under the Medical Practice Act, article 4495b, V.T.C.S. The opinion notes section 773.091 of the Health and Safety Code, and states:

Section 773.091 thus provides for the same confidentiality, exceptions to confidentiality, and requirements for release of the information at issue as does section 5.08 of the Medical Practice Act, without conflicting with the provisions of that act. . . . Our analysis under the Medical Practice Act is therefore equally applicable to a consideration of the issue under the Health and Safety Code provisions.

Open Records Decision No. 598 at 4 n.2.

³You state that you believe section 773.091(g) would prohibit release of the information in the run sheets unless the request was made at the time the patient was being treated. You state:

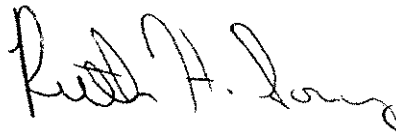
Although subsection (g) appears to provide that certain listed information is not confidential, the language "of a patient who is receiving emergency medical services" is unclear. We believe that this language was intended to cover situations where information is requested while the patient is actually receiving the services; for example, when the news media is present at the scene of an accident. . . . This reading of subsection (g) of the statute would not allow the City to subsequently (after the services have been completed) release records revealing the age, sex, occupation, nature of injury or illness, and city of residence of a patient. [Emphasis in original.]

We direct your attention to section 773.091(d), which provides:

the medical information contained in the records that does not relate to the presence or nature of the injury or illness for which the patient is treated. You must keep confidential information about insurance and the patient's employer, as this is identifying information.⁴

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/rho

Ref.: ID# 23354

Enclosures: Submitted documents

cc: Ms. Malcolm S. Nettles
1619A West Sixth Street
Austin, Texas 78703
(w/o enclosures)

(Footnote continued)

This subchapter governs confidential communications or records concerning a patient *regardless of when the patient received the services* of emergency medical personnel or a physician providing medical supervision. [Emphasis added.]

The information listed in section 773.091(g) is subject to release without regard to whether the request is made subsequent to treatment rather than simultaneous.

⁴Section 773.091(g) provides for information to be disclosed about a patient's "occupation." The run sheets have spaces for the name of the patient's employer and the employer's work and home telephone numbers. There is no space asking for the patient's "occupation." Since the name of a patient's employer and the employer's telephone numbers are identifying information and not specifically listed in section 773.091(g), this information would be protected under section 773.091(b). See Gov't Code § 312.002(a).